

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

LIGIA VANESSA CHAPETON, an individual,  
and GARY SEYMOUR, an individual,

Plaintiffs,

v.

MEDTRONIC, INC., a Minnesota corporation;  
MEDTRONIC SOFAMOR DANEK, USA, INC.,  
a Tennessee corporation; ROGER HARTL, M.D.,  
an individual,

Defendants.

Case No. 1:14-CV-00866

**JOINT MOTION TO SET BRIEFING SCHEDULE TO ADDRESS  
JURISDICTIONAL ISSUES**

In support of their Joint Motion to Set Briefing Schedule to Address Jurisdictional Issues, Plaintiffs Ligia Vanessa Chapeton and Gary Seymour (“Plaintiffs”), and Defendants Medtronic, Inc., and Medtronic Sofamor Danek USA, Inc., (the “Medtronic Defendants”), and Roger Hartl, M.D. (“Dr. Hartl”) state to the Court as follows:

1. On December 6, 2013, Plaintiffs filed their Verified Complaint in the Supreme Court of the State of New York, alleging that Dr. Hartl and the Medtronic Defendants were liable for the serious injuries that resulted from the off-label use of Medtronic’s bio-engineered Infuse bone protein.
2. Plaintiffs served Defendants with a copy of the pleading on January 21, 2014.
3. On February 10, 2014, the Medtronic Defendants, joined by Dr. Hartl, filed their Notice of Removal, (Doc. 1), asserting that this Court has federal question jurisdiction pursuant to 28 U.S.C. § 1331.

4. Pursuant to 28 U.S.C. § 1447(c), the deadline for Plaintiffs to file a motion to remand on any basis other than subject matter jurisdiction is thirty days from the date of removal (March 12, 2014).

5. Plaintiffs contend that Court lacks subject matter jurisdiction and will file a Motion to Remand on those grounds.

6. Given the potentially dispositive jurisdictional issues underlying Plaintiffs' forthcoming Motion to Remand, the parties jointly request that the Court enter the following deadlines in this case:

- a. Plaintiffs shall file a Motion to Remand on or before March 12, 2014.
- b. Defendants shall file a response to the Motion on or before April 2, 2014.
- c. Plaintiffs shall file a reply in support of their Motion by April 16, 2014.
- d. Defendants shall not be required to answer or otherwise respond to Plaintiffs' Verified Petition unless the Court denies Plaintiffs' Motion to Remand, in which case Defendants shall have thirty days from the date of said denial to answer or otherwise respond.

7. No party has requested any prior extensions of any deadlines.

WHEREFORE, Plaintiffs and Defendants jointly request that this court enter the attached proposed Order Setting a Briefing Schedule to Address Jurisdictional Issues.

Dated: February 18, 2014

Respectfully submitted,

LIEFF, CABRASER, HEIMANN & BERNSTEIN, LLP

By: /s/ Wendy R. Fleishman

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